IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 14756 of 2004

Between:

B. Doraswamy Reddy S/o. Swami Reddy
Karuru Village, Tada Mandal, Nellore District.

..... PETITIONER

AND

1 The Superintending Engineer (Operations) A.P. TRANSCO, Nellore, Nellore District.
2 The Divisional Electrical Engineer(Operation) A.P. Transco, Gudur, Nellore District.
3 The Assistant Divisional Engineer, S.P.D.C. of A.P. Ltd., C & O Sullurpet, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue appropriate writ, order or direction more particularly in the nature of Mandamus declaring the impugned notice issued by the 3rd respondent vide Lr.No.ADE/C&O/SPET/FDOC/DNo.929/2004,
Dt. 13.08.2004 as illegal, arbitrary, without jurisdiction and unsustainable and consequently direct the respondents not to enforce the impugned proceedings including the demand raised pursuant to the said impugned order dt. 13.8.2004.

Counsel for the Petitioner: MR.N.PRAMOD

Counsel for the Respondent No: Mr. K.Ravindra Kumar

The Court made the following :

ORDER :-

Petitioner claims to be the owner and possessor of agricultural land situated at Karur Village, Tada Mandal, Nellore District in Sy.No.141-10 and 141-12, wherein he has been carrying on agricultural operations for which the power supply has been provided to the pump set under SC.No.308. Petitioner states that he has been regularly paying the consumption charges and there has been no default at any point of time. While so, the petitioner was served with the impugned notice dated 13.08.2004 issued by the third respondent alleging that during the inspection on 07-08-2004 it was noticed that the petitioner had directly tapped electrical energy from the overhead lines and the loss sustained by the Corporation due to the said offence is assessed at Rs.42,973/- and calling upon the petitioner to pay the said sum of Rs.42,972.50ps within a week failing which the power supply to the service connection of the petitioner will be disconnected without further notice. It appears that subsequently the power supply has been disconnected. Aggrieved by the said action, this writ petition has been filed.

Learned counsel for the petitioner contends that the action of the respondents in disconnecting the power supply and also making demand for Rs.42,972.50ps under the impugned notice without there being any opportunity to the petitioner to rebut the allegation of pilferage, is arbitrary and illegal.

Heard the learned Counsel for the petitioner and the learned Standing Counsel appearing for the respondents.

On the basis of the material on record, it is clear that the

petitioner was not afforded any opportunity to rebut the alleged pilferage before issuing the impugned notice dated 13-08-2004. It is also clear that the supply to the petitioner's service connection has been disconnected even before the time specified under the impugned notice for payment expired. Having regard to the facts and circumstances, I find force in the submission of the learned Counsel for the petitioner that the impugned notice and consequential disconnection effected immediately thereafter cannot be sustained. Accordingly, the Writ Petition is disposed of permitting the petitioner to submit his objections before the second respondent – The Divisional Electrical Engineer (Operation), A.P. Transco, Gudur, Nellore District within one week from today treating the impugned notice dated 13-08-2004 as a show-cause notice. On receipt of such objections, the second respondent shall consider the same and pass appropriate orders in accordance with law. In the meanwhile, the 3rd respondent – the Assistant Engineer, S.P.D.C. of A.P. Limited, C & O Sullurpet, Nellore District is directed to restore the power supply in respect of the petitioner's service connection No.308 of Category-V situated in Sy.No.141-12 of Karur Village, Tada Mandal, Nellore District forthwith and no coercive steps shall be taken against the petitioner on the basis of the impugned notice dated 13-08-2004 till the objections that may be filed by the petitioner are considered and appropriate orders are passed.

The writ petition is accordingly disposed of. No costs.

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19-08-2004

klp/sh

To

1 The Superintending Engineer (Operations) A.P. TRANSCO, Nellore, Nellore District.
2 The Divisional Electrical Engineer(Operation) A.P. Transco, Gudur, Nellore District.
3 The Assistant Divisional Engineer, S.P.D.C. of A.P. Ltd., C & O Sullurpet, Nellore District.

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